



July 2, 2002

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street S.W., TW-A325
Washington, D.C. 20554

Re: *Ex Parte* Notice
In the Matter of Amendment of Part 1 of the Commission's
Rules – Competitive Bidding Procedures
WT Docket No. 97-82

Dear Ms. Dortch:

Pursuant to Section 1.1206 (b) of the rules and regulations of the Federal Communications Commission, enclosed for filing is a written *ex parte* presentation dated Tuesday, July 2, 2002, to Thomas J. Sugrue, Bureau Chief of the Wireless Telecommunications Bureau concerning the above-captioned proceeding. If you have any questions regarding this matter, please communicate with the undersigned.

Sincerely,

/s/ L. Marie Guillory
L. Marie Guillory
Vice President
Legal & Industry Division

LMG:rhb



July 2, 2002

Mr. Thomas J. Sugrue, Bureau Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: In the Matter of Amendment of Part 1 of the Commission's
Rules – Competitive Bidding Procedures
WT Docket No. 97-82

Dear Mr. Sugrue:

I am writing to urge the Commission to promptly reconsider and reverse a harmful interpretation of the “controlling interest” standard contained in 47 C.F.R. Section 1.2110(c)(2)(ii)(F). The interpretation at issue is the subject of a two-year old petition for reconsideration of the August 14, 2000, Fifth Report and Order filed by the Rural Telecommunications Group in the above referenced proceeding.

In the August 2000 Fifth Report and Order, the Commission concluded that officers and directors of an entity, including a rural telephone company, are considered to have a controlling interest in applicants for auctionable licenses. This interpretation applies to cooperatives that are rural telephone companies. As a result of the interpretation, the gross revenues of the outside business activities of cooperative directors are attributed to cooperatives for the purpose of determining whether a cooperative is eligible for bidding credits in spectrum auctions.

There is no justifiable reason for attributing the income of officers and directors of NTCA cooperative members to the cooperatives on whose boards they serve. The Commission's interpretation is unreasonable because it totally overlooks the organizational structure of cooperatives. Cooperative directors have no greater financial interests in the cooperative than any other member that takes service from the cooperative. Cooperative principals are based on one man one vote. Every cooperative member has the same voting power and margins are returned to members and directors alike on the basis of business with the cooperative. The outside income of individual directors and members is irrelevant to the cooperative. This income is not available to the cooperative and neither adds nor detracts from the cooperative's bargaining power. Cooperatives are necessarily unable to rely on the income of directors as a financial

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resource and directors' outside business interests are unable to benefit from the bidding credits.

Cooperative directors are members of the community and come from a cross-section of rural America that typically includes retirees, farmers, ranchers, teachers and a range of professions and small business owners. The Commission's interpretation is harmful because it requires unnecessary disclosure of private information that has no relevance to the business need for bidding credits. The rule unnecessarily discourages otherwise eligible applicants from applying for bidding credits and serves no public purpose.

We urge you to reconsider and rescind the 2000 interpretation promptly before additional auctions are scheduled. The interpretation has already created unnecessary burdens for the small companies that the Commission's bidding credit policies are intended to assist.

Sincerely yours,

/s/ L. Marie Guillory
L. Marie Guillory
Vice President
Legal & Industry